

**Senate File 2089 - Introduced**

SENATE FILE 2089

BY DVORSKY

**A BILL FOR**

1 An Act making the advertising and conducting of certain  
2 live music performances or productions under specified  
3 circumstances an unlawful practice, and making penalties  
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714.16, subsection 2, Code Supplement  
2 2009, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. o. (1) It is an unlawful practice for  
4 a person to advertise or conduct a live musical performance  
5 or production through the use or representation of a  
6 false, deceptive, or misleading affiliation, connection, or  
7 association between a performing group and a recording group.  
8 Such use or representation of an affiliation, connection, or  
9 association shall not be considered an unlawful practice in  
10 violation of this paragraph "o" if one or more of the following  
11 applies:

12 (a) The performing group is the authorized registrant and  
13 owner of a federal service mark for that group registered in  
14 the United States patent and trademark office.

15 (b) At least one member of the performing group was a member  
16 of the recording group and has a legal right by virtue of use  
17 or operation under the recording group name without having  
18 abandoned the name or affiliation with the recording group.

19 (c) The live musical performance or production is  
20 identified in all advertising and promotion as a salute or  
21 tribute.

22 (d) The advertising does not relate to a live musical  
23 performance or production taking place in this state.

24 (e) The performance or production is expressly authorized  
25 by the recording group.

26 (2) For purposes of this paragraph "o":

27 (a) "*Performing group*" means a vocal or instrumental  
28 group seeking to use the name of a recording group that has  
29 previously released a commercial sound recording under that  
30 name.

31 (b) "*Recording group*" means a vocal or instrumental group at  
32 least one of whose members has previously released a commercial  
33 sound recording under that group's name and in which the member  
34 or members have a legal right by virtue of use or operation  
35 under the group name without having abandoned the name or

1 affiliation with the group.

2 (c) "*Sound recording*" means a work that results from the  
3 fixation on a material object of a series of musical, spoken,  
4 or other sounds regardless of the nature of the material  
5 object, such as a disk, tape, or phonographic record, in which  
6 the sounds are embodied.

7 EXPLANATION

8 This bill provides that the advertisement or conducting  
9 of a live musical performance or production through the  
10 use or representation of a false, deceptive, or misleading  
11 affiliation, connection, or association between a performing  
12 group and a recording group constitutes an unlawful practice  
13 pursuant to Code section 714.16.

14 The bill defines a "performing group" as a vocal or  
15 instrumental group seeking to use the name of a recording group  
16 that has previously released a commercial sound recording, as  
17 defined in the bill, under that name. A "recording group" is  
18 defined as a vocal or instrumental group at least one of whose  
19 members has previously released a commercial sound recording  
20 under that group's name and in which the member or members have  
21 a legal right by virtue of use or operation under the group  
22 name without having abandoned the name or affiliation with the  
23 group.

24 The bill specifies circumstances under which performing  
25 group advertisements, performances, or productions involving  
26 sound recordings by recording groups will not constitute an  
27 unlawful practice. These include when the performing group  
28 is the authorized registrant and owner of a federal service  
29 mark for that group registered in the United States patent and  
30 trademark office, when at least one member of the performing  
31 group was a member of the recording group and has a legal right  
32 by virtue of use or operation under the group name without  
33 having abandoned the name or affiliation with the group, when  
34 the live musical performance or production is identified in  
35 all advertising and promotion as a salute or tribute, when the

1 advertising does not relate to a live musical performance or  
2 production taking place in Iowa, and when the performance or  
3 production is expressly authorized by the recording group.

4 The penalty provisions for unlawful practice violations  
5 under Code section 714.16 would be applicable, and include  
6 injunctive relief and a civil penalty of up to \$40,000 per  
7 violation. Additionally, a civil penalty of up to \$5,000 for  
8 each day of an intentional violation of a restraining order or  
9 injunction may be imposed.